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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 MEL TYRON EDWARD,

12 Plaintiff,

Case No. 2:03-cv-02584 ALA (P)

13 vs.

14 STEPHEN SCARSELLA, et al.,

15 Defendants.

ORDER

16 _____/
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18 The parties appeared before the Court today via a teleconference to discuss (1)
19 Defendant's responses to Plaintiff's request to discover Mr. Scarsella's mental health records, (2)
20 the situs for taking Plaintiff's deposition, and (3) the schedule for the upcoming trial.

21 **I**

22 As set forth in the Court's April 24, 2008 Order, the Court has reviewed the records
23 submitted by counsel for Mr. Scarsella (Doc. No. 178). After hearing argument concerning this
24 matter, the Court has tentatively concluded that Plaintiff has not demonstrated that medical
25 evaluations of whether Mr. Scarsella suffered stress or a disability as a result of an alleged
26 August 16, 2002 incident with his supervisors are relevant to the matters here. Therefore,

1 Plaintiff's request for Mr. Scarsella's mental health records is denied without prejudice. The
2 Court gives Plaintiff until May 16, 2008, to submit authority to support his position that these
3 mental health records are relevant.

4 Following the teleconference call, the Court received a copy of a one page letter sent to
5 the Court Clerk of the El Dorado County Court by Pacific Educational Services, Inc., indicating
6 that Mr. Scarsella had completed a twelve hour anger management course on November 14,
7 2004. The letter does not contain any evaluation of Mr. Scarsella's mental condition or any
8 reports from any medical practitioners or therapists. This appears to be a public record and,
9 therefore, not protected by any privacy interest. It also does not appear to be relevant to Mr.
10 Scarsella's mental condition on June 8, 2002. Accordingly, the Court does not have to address
11 whether what appears to be a public record has to be disclosed as relevant to his mental condition
12 on June 8, 2002. The Court's tentative decision to decline disclosure of the Pacific Educational
13 Services, Inc., letter is subject to reconsideration after receiving Plaintiff's response concerning
14 the relevancy of any of the documents reviewed by the Court.

15 II

16 Before this Court is Defendant's motion to take Plaintiff's deposition. (Doc. No. 168).
17 Defendant's motion is denied as moot because the parties have agreed to stipulate to an alternate
18 location to take Plaintiff's deposition. The parties will notify the Court by May 9, 2008, of the
19 stipulation.

20 III

21 The parties have agreed to file a Joint Pretrial Statement by June 2, 2008. The trial
22 confirmation hear is set for July 1, 2007, at 4:30 p.m. (Doc. No. 166). The trial confirmation
23 hearing will remain on July 1, 2007, however, it will be at 10:00 a.m. via a teleconference call.
24 Ms. Christine O'Connor, counsel for Plaintiff, has agreed to make the arrangements for the
25 teleconference call.

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1 Accordingly, it is hereby ORDERED that:

- 2 1. Plaintiff's request to discover Mr. Scarsella's mental health records (Doc. No.
3 157) is DENIED WITHOUT PREJUDICE. Plaintiff shall have until May 16,
4 2008, to submit authority to support his position that the records reviewed by this
5 Court are relevant.
- 6 2. Defendant's motion to take Plaintiff's deposition (Doc. No. 168) is DENIED as
7 moot. By May 9, 2008, the parties shall notify the Court of the stipulated time
8 and place of Plaintiff's deposition.
- 9 3. The parties shall file a Joint Pretrial Statement on or before June 2, 2008. A
10 pretrial conference (as described in Local Rule 16-282) is set for June 4, 2008.
11 The pretrial conference shall be conducted on the file only, without appearance by
12 either party.
- 13 4. The trial confirmation hearing is scheduled for July 1, 2008, at 10:00 a.m., via
14 teleconference. Ms. O'Connor, counsel for Plaintiff, shall make arrangements
15 with a conference call entity for the conference call, and provide the telephone
16 number and pin to Defendant and to the Court no later than June 2, 2008.

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18 DATED: May 2, 2008

19 /s/ Arthur L. Alarcón
20 UNITED STATES CIRCUIT JUDGE
21 Sitting by Designation
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